

**EXHIBIT J**



Willard K. Tom  
General Counsel

United States of America  
**FEDERAL TRADE COMMISSION**  
WASHINGTON, D.C. 20580

NOV 30 2011

John L. Carter, Esq.  
Carter Fullerton & Hayes, LLC  
4115 Annandale Road  
Suite 205  
Annandale, VA 22003

Re: FOIA-2011-00960  
Alcoholic Beverages, et al.

Dear Mr. Carter:

This letter responds to your appeal of October 28, 2011, of the partial denial of your Freedom of Information Act (FOIA) request. For the reasons given below, your appeal is denied.

In your FOIA request of May 20, 2011, you asked that we provide you with a copy of:

1. "[A]ll documents . . . relating to liquor; the Care Act, H.R. 1161 or H.R. 5034, post and hold and alcohol pricing laws, caffeinated alcoholic beverages, flavored malt beverages, wine, spirits or malt beverages; malt beverage manufacturers; malt beverage wholesalers; wine and distilled spirits manufacturers; wine and distilled spirits wholesalers; malt beverage, wine and distilled spirits retailers; any organizations representing the aforementioned; and any entity communicating with FTC or any division or office thereof, including without limitation the FTC's Commissioners offices, Bureaus of Competition, Consumer Protection, Economics, General Counsel, Office of Policy and Planning and/or any regional office of the FTC (hereinafter FTC) on any aspect of the regulation of alcohol from date January 1, 2008 through the completion of your production for this FOIA request. Please indicate clearly what date your FOIA search ends for this request.
2. Any document regarding the FTC's response and/or compliance with our two previous FOIA requests dated 10/13/2006 (FOIA 2007-00067) and 11/20/2007 other than the documents actually produced to Carter Fullerton & Hayes in response to FOIA these requests.
3. From January 1, 2008 to the present, all FTC documents related to any communication with other federal, state and local agencies regarding the regulation of alcohol, the legal basis for FTC jurisdiction, and/or any protocols with other federal departments or agencies on alcohol-related issues.

4. From January 1, 2008 to the present, the travel schedules and expense forms for any FTC employee for any travel associated with alcohol-related issues. All requests for speaking engagement, travel, and contact regarding alcohol-related issues or alcohol-related entities, corporations, and/or associations.
5. Correspondence solely related to the FTC's study of alcohol advertising is exempt from this request. Do not include in this request material that is already publicly available on the FTC website as of May 20, 2011. In your search for the above matters[,] you should **include but not limit your search** to any mention/contact of/with: American Beverage Licenses, American Beverage Institute, Brewers Association, Costco Corporation, Center for Alcohol and Marketing, Center for Science in Public Interest, Century Council, Mercatus Center, Distilled Spirits Council of Untied [sic] States, Beer Institute, Wine Institute, National Beer Wholesalers Association, Institute for Justice, Wine and Spirits Wholesalers of America, McDermott Will & Emory, Kirkland and Ellis, National Association of Beverage Importers, National Retail Federation, National Conference of State Legislature, Retail Industry Leaders Association, Specialty Wine Retailers Association, George Mason University, National Conference of State Liquor Administrators, National Association of Attorney Generals [sic], National Alcohol Beverage Control Administration, Pacific Institute of Research and Evaluation, Total Wine & Spirits, Wine America, National Restaurant Association, Mothers Against Drunk Driving, Marin Institute, any law firm, state chapters or associations or related entities of any of the aforementioned groups, any individual alcohol company manufacturer, distributor, importer or retail company."

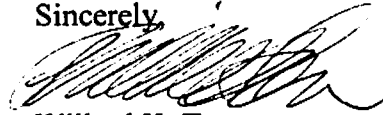
On July 27, 2011, the FOIA unit responded by stating that it had located 123 pages of responsive documents, of which 102 pages, and portions of other pages, were redacted under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). On September 9, 2011, the FOIA unit responded again by stating that it had located another 698 pages of responsive documents, of which 368 pages, and portions of other pages, were redacted under Exemption 5. On September 26, 2011, the FOIA unit stated that it had located another 650 pages of responsive documents, of which approximately 350 pages, and portions of other pages, were redacted under FOIA Exemption 5. Finally, on September 30, 2011, the FOIA unit stated that it had located another 1100 pages of responsive documents, of which approximately 900 pages, and portions of other pages, were redacted pursuant to FOIA Exemption 5 and Exemption 6, 5 U.S.C. § 552(b)(6).

I am denying your appeal. First, Exemption 5 applies to nearly all of the withheld materials. These materials constituted recommendation memoranda and drafts of letters and other documents that are clearly predecisional and deliberative. *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975). Furthermore, the FOIA unit properly withheld personal information of FTC personnel pursuant to Exemption 6, release of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, I find that this information was properly withheld from disclosure. *NARFE v. Horner*, 879 F.2d 873, 879 (D.C. Cir. 1989).

Finally, your request for a detailed description of withheld documents is essentially a request for the information typically provided in a *Vaughn* Index, which courts require in FOIA litigation to describe withheld records. However, “[a]gencies need not provide a *Vaughn* Index until ordered by a court after the [requester] has exhausted the administrative process.” *Judicial Watch, Inc. v. Clinton*, 880 F. Supp. 1, 11 (D.D.C. 1995). Therefore, I am denying your request.

As required by FOIA, you are hereby advised that judicial review of this decision may be obtained under 5 U.S.C. § 552(a)(4)(B) in a United States District Court in the district where you reside or have your principal place of business or in the District of Columbia. You are also advised that I am the designated official responsible for denying your appeal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Willard K. Tom', with a stylized flourish at the end.

Willard K. Tom  
General Counsel